

OP-16 2013

AUG 28 1986

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## MEMORANDUM FOR:

Legislation Division  
Office of Congressional Affairs

## FROM:

Robert W. Magee  
Director of Personnel

## SUBJECT:

Mandatory Retirement Legislation

## REFERENCES:

- (A) Your memo, same subject, dtd 15 August 1986, OCA-86-2822
- (B) Letter to the Honorable David A. Stockman, Director, Office of Management and Budget from William J. Casey, Director of Central Intelligence, dtd 11 March 1985 Exec. Reg. 85-1003, OLL 85-0816
- (C) Employee Bulletin No. 1251, "Director of Personnel's Testimony on CIA Retirement," dtd 2 May 1985
- (D) Letter from Senator Dave Durenberger, Chairman, SSCI to the Honorable William J. Casey, Director of Central Intelligence, dtd 12 November 1985, Exec. Reg. 85-4522, with attached statement of Senator Durenberger on CIA Retirement Program

1. This is in response to your request in Reference A for our views concerning legislation which would eliminate the mandatory retirement provisions of the current CIARDS law.

2. We remain as unalterably opposed to such legislation as we always have been. This Office shares your belief that the subject legislation would be detrimental to the national interest. Elimination of the mandatory retirement features of CIARDS would significantly impair the Agency's ability to maintain the young and vigorous workforce needed to carry out the mentally and physically arduous and stressful tasks and duties inherent in the intelligence mission. The personnel management flexibility afforded to the Director of Central Intelligence by the mandatory retirement provisions of CIARDS is an

Downgrade to UNCLASSIFIED

when separated from Reference B.

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SUBJECT: Mandatory Retirement Legislation

essential tool in ensuring that the Agency's overseas and domestic cadres are composed of those people who can best carry out the intelligence mission.

3. The case in support of the CIARDS mandatory retirement provisions has been made fully by this Agency in at least two prior instances. Your attention is directed to the attached copies of Reference B, especially paragraphs two through seven, and Reference C, especially the portion starting with the first paragraph on page four and ending after the first paragraph on page five. SSCI recognition of these points is reflected in paragraphs three through seven of Senator Durenberger's above-noted statement (see Reference D), a copy of which also is attached.

4. Congressional recognition of the need to maintain a young and vigorous intelligence cadre more recently was reflected in the enactment of new Section 302(b) of the CIA Retirement (CIAR) Act, which applies to post-1983 "CIARDS-type" employees under the new Federal Employees' Retirement System the same mandatory retirement provisions as apply to "old" CIARDS employees under Section 235 of the CIAR Act.

5. Additionally, as to the retirement issue, we would point out that the "preferential" retirement annuity computation rates for "old" and "new" CIARDS participants are premised on and reflect the necessity for earlier retirement, whether voluntary (i.e., with the Director's consent) or mandatory (i.e., at the Director's direction), for those employees who perform the demanding duties required to earn designation as a CIARDS (or FERS special category) participant.

6. Finally, we would be opposed to Section 3 of the proposed legislation, if it would limit or decrease the Agency's testing, hiring, and retention authorities with respect to Agency firefighters and/or Security Protective Officers.

25X1



*for* Robert W. Magee

Attachments:  
As stated

OCA 86-2822  
15 August 1986

MEMORANDUM FOR: Director, Office of Personnel  
FROM:   
Legislation Division  
Office of Congressional Affairs  
SUBJECT: Mandatory Retirement Legislation

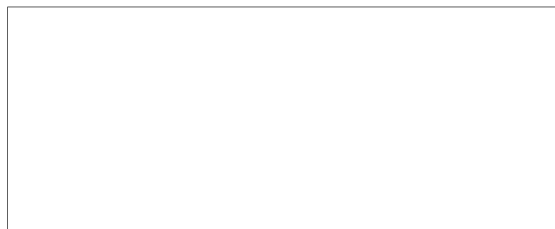
1. The Office of Management and Budget has requested our views on a letter recently sent by Representative James Jeffords (R-VT) to the Director of OPM regarding H.R. 4151, the "Age Discrimination in Employment Amendment of 1986." The bill would remove the upper age limit under the Age Discrimination in Employment Act of 1967. As now in force, the ADEA protects workers between ages 40 and 70 from discrimination in employment based on age. A copy of the letter to OMB and the bill are attached.

2. The Congressman, who is the Ranking Minority Member on the House Education and Labor Committee, has stated that when this bill reaches the House floor in September, he intends to offer an amendment that would preclude all federal agencies from requiring that employees retire by a certain age. The Congressman also requested that OPM provide a list of positions in the executive branch subject to mandatory retirement.

3. Congressman Jeffords amendment would, if enacted into law, eliminate the mandatory retirement features contained in CIARDS. I believe that this amendment would not be in the best interest of the Agency since it would substantially hinder our ability to phase out older employees who can no longer meet the rigorous mental and physical requirements of a job and make room for younger employees. I suggest that we should make our views known to both OMB and the HPSCI staff on this matter.

4. It would be helpful if your office could prepare a short paper detailing the arguments against the Jeffords amendment. Since OMB has requested our views by 28 August, I would appreciate receiving the views of your Office within the next two weeks.

Attachment as  
stated



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LEGI-SLATE Report for 99th Congress      Thursday, August 14, 1986    10:39am (EDT)

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Report for H.R.4154 Age Discrimination in Employment Amendments of 1986  
As reported by House committee, August 6, 1986    Report No. 99-756  
Complete Text of this version

KEY: << ... >> indicates struck-through text in printed version  
{ { ... } } indicates bold parenthesis (usually numbered Senate amendments)  
[[ ... ]] indicates bold brackets in printed version

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99th CONGRESS  
2d Session

IB  
Union Calendar No. 451

H. R. 4154  
[Report No. 99-756]

To amend the Age Discrimination in Employment Act of 1967 to remove the  
maximum age limitation applicable to employees who are protected under  
such Act, and for other purposes.

---

IN THE HOUSE OF REPRESENTATIVES  
February 6, 1986

Mr. Pepper (for himself, Mr. Hawkins, Mr. Jeffords, Mr. Martinez, Mr.  
Gunderson, Mr. Roybal, Mr. Rinaldo, Mr. Biaggi, Ms. Snowe, Mr. Bonker, Mr.  
Tauke, and Mr. Waxman) introduced the following bill; which was referred  
to the Committee on Education and Labor

August 6, 1986

Additional sponsors: Mrs. Bentley, Mr. Chappie, Mr. Hunter, Mr. Lehman of  
Florida, Mr. McKinney, Mr. Markey, Mr. Mitchell, Mr. Mrazek, Mr. Olin, Mr.  
Rahall, Mr. Scheuer, Mr. Towns, Mr. Wyden, Mr. Yates, Mr. Rangel, Mr.  
Akaka, Mr. Cobey, Mr. Chappell, Mr. McGrath, Mr. Daub, Mr. Dymally, Mr.  
Annunzio, Mr. Edgar, Mr. Bonior of Michigan, Mr. Jones of North Carolina,  
Ms. Kaptur, Mr. Crockett, Mr. Dorgan of North Dakota, Mrs. Collins, Mr.  
Anderson, Mr. de Lugo, Mrs. Schroeder, Mr. Coelho, Mr. de la Garza, Mr.  
Fauntroy, Mr. Foglietta, Mr. Dwyer of New Jersey, Mr. Coats, Mr. Berman,  
Mr. Boehlert, Mr. Wirth, Mr. McCain, Mrs. Long, Mr. Whitehurst, Mr. Wylie,  
Mr. LaFalce, Mr. Lungren, Mr. Morrison of Connecticut, Mrs. Burton of  
California, Mr. Wilson, Mr. Weaver, Mr. Kildee, Mr. Ackerman, Mr. Lantos,  
Ms. Oaker, Mr. McDade, and Mr. Levin of Michigan

August 6, 1986

Reported with an amendment, committed to the Committee of the Whole House on  
the State of the Union, and ordered to be printed

LEGI-SLATE Report

Page 2

August 14, 1986

[Strike out all after the enacting clause and continue with the text that follows]

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A BILL

To amend the Age Discrimination in Employment Act of 1967 to remove the maximum age limitation applicable to employees who are protected under such Act, and for other purposes.

=====

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

<<SECTION 1. SHORT TITLE.>>

<<This Act may be cited as the "Age Discrimination in Employment Amendments of 1986".>>

<<SEC. 2. AMENDMENTS TO ACT.>>

<<(a) Coverage Under Group Health Plans.--Subsection (g)(1) of section 4 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 623(g)(1)), as added by section 116(a) of the Tax Equity and Fiscal Responsibility Act of 1982, is amended by striking out "through 69" each place it appears and inserting in lieu thereof "or older".>>

<<(b) Technical Amendment.--Subsection (g) of the Age Discrimination in Employment Act of 1967, as added by section 802(b)(2) of the Older Americans Act Amendments of 1984, is amended by striking out "(g)(1)" and inserting in lieu thereof "(h)(1)".>>

<<(c) Removal of Maximum Age Limitation.--Section 12 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 631) is amended-->>

<<(1) in subsection (a) by striking out "but less than seventy years of age", and>>

<<(2) in subsection (c)(1) by striking out "but not seventy years of age,".>>

<<SEC. 3. EFFECTIVE DATE AND APPLICATION OF AMENDMENTS.>>

<<This Act and the amendments made by section 2 of this Act shall take effect on January 1, 1987, except that with respect to any employee who is subject to a collective-bargaining agreement-->>

<<(1) which is in effect on June 30, 1986,>>

<<(2) which terminates after January 1, 1987,>>

<<(3) any provision of which was entered into by a labor organization (as defined by section 6(d)(4) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(d)(4)), and>>

<<(4) which contains any provision that would be superseded by such amendments, but for the operation of this section,>>

<<such amendments shall not apply until the termination of such collective bargaining agreement or January 1, 1990, whichever occurs first.>>

SECTION 1. SHORT TITLE.

This Act may be cited as the "Age Discrimination in Employment Amendments of 1986".

SEC. 2. AMENDMENTS TO ACT.

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LEGI-SLATE Report

Page 3

August 14, 1986

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(2) in subsection (c)(1) by striking out "but not seventy years of age,".

### SEC. 3. STUDY AND PROPOSED GUIDELINES RELATING TO POLICE OFFICERS AND FIREFIGHTERS.

(a) Study.--Not later than 18 months after the date of enactment of this Act, the Secretary of Labor and the Equal Employment Opportunity Commission, jointly, shall--

(1) conduct a study--

(A) to determine whether physical and mental fitness tests are valid measurements of the ability and competency of police officers and firefighters to perform the requirements of their jobs,

(B) if such tests are found to be valid measurements of such ability and competency, to determine which particular types of tests most effectively measure such ability and competency, and

(C) to develop recommendations with respect to specific standards that such tests, and the administration of such tests should satisfy, and

(2) submit a report to the Speaker of the House of Representatives and the President pro tempore of the Senate that includes--

(A) a description of the results of such study, and

(B) a statement of the recommendations developed under paragraph

(1)(C).

(b) Proposed Guidelines.--Not later than 2 years after the date of the enactment of this Act, the Equal Employment Opportunity Commission shall propose, in accordance with subchapter II of chapter 5 of title 5 of the United States Code, guidelines for the administration and use of physical and mental fitness tests to measure the ability and competency of police officers and firefighters to perform the requirements of their jobs.

### SEC. 4. EFFECTIVE DATE AND APPLICATION OF AMENDMENTS.

This Act and the amendments made by section 2 of this Act shall take effect on January 1, 1987, except that with respect to any employee who is subject to a collective-bargaining agreement--

(1) which is in effect on June 30, 1986,

(2) which terminates after January 1, 1987,

(3) any provision of which was entered into by a labor organization (as defined by section 6(d)(4) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(d)(4)), and

(4) which contains any provision that would be superseded by such amendments, but for the operation of this section, such amendments shall not apply until the termination of such collective bargaining agreement or January 1, 1990, whichever occurs first.

Central Intelligence Agency



Washington, D.C. 20505

Executive Registry	
85-	1003

Sub  
G  
RETIREMENT

044-85-0816  
11 MAR 1985

86-1671

The Honorable David A. Stockman  
Director  
Office of Management and Budget  
Washington, D.C. 20503

Dear Dave:

I have now had an opportunity to review the specific proposals to reform the federal retirement system by amending Title 5 of the U.S. Code. There are many aspects of the proposal that I fully endorse as necessary steps to reduce the costs involved in federal retirement systems. My responsibility as the Director of Central Intelligence, however, requires me to ask that employees of the Central Intelligence Agency be exempt from any reduction in annuities for retirement at ages prior to age 65. Moreover, I ask you to reconsider the recommendation that survivor benefits would not be payable if the beneficiary had not obtained age 60 or age 50 or if he or she has a surviving child of the employee.

I am sure you will agree that in these tense times our Nation's first line in defense is in intelligence. Recognizing this, in the past four years this Administration has improved immeasurably the intelligence capabilities of this government. It would be extremely unwise to threaten this achievement by severely reducing my ability to recruit and retain the caliber of individuals we have historically attracted.

I have read George Shultz' letter to you on this same subject and fully endorse everything he says as equally applicable to our employees. George has articulated clearly the management problems that will arise if we do not have the ability to move the right people into the right places at the right time. This requires a core of personnel who are prepared to go anywhere in the world as the national interest requires. Ultimately, it also means that we must move people into retirement so that we can prepare the next generation of intelligence officials. He notes that between the ages of 50 and 54 more than half the people in the Foreign Service are not available for worldwide duty because either the employee or a member of the family is unable to qualify for full medical clearance. Because of the unique demands placed on intelligence personnel, our figures are even more grim. We find that after age 50 nearly 50 percent of our employees are not eligible for full service medical clearances. Were we to include those who cannot travel due to family medical constraints, the figure would be even more stark.

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The Honorable David A. Stockman

In addition to the purely clinical health hazards involved in worldwide service, Agency personnel are confronted with psychological stresses which over the long haul extract a health toll just as great. In addition to the subtle factors of cultural translocation and family disruption, there are not infrequently highly traumatic events. Scores of employees have been in prison, sometimes for years, or otherwise harassed when their Agency affiliation became known. Employees and their families confront the more diffuse crises associated with civil disorder, terrorism, and exceptionally high local crime rates. No person of comparable social background is subjected to even remotely comparable factors in the American suburban setting in which our employees otherwise would have remained.

You must also appreciate what the current worldwide epidemic of terrorism means in trying to manage an organization whose employees must daily confront this reality and who, because of their Agency affiliation, are particularly vulnerable. Since 1968, there have been over 8,500 terrorist incidents worldwide, over 3,500 of which were targetted against Americans. Regrettably, the end to this scourge is not yet in sight. Indeed, it is one of my most pressing responsibilities to help negate this menace. To do it I need a young and vigorous work force medically and psychologically able to handle the stress and sufficiently courageous to accept the obvious dangers involved. In this regard, I am particularly dismayed to note that while the annuity reduction would not apply to law enforcement officers, firefighters, or other special groups, it would apply to the Central Intelligence Agency. Surely, reality and reason would require that the Central Intelligence Agency, which has lost 50 of its colleagues in the line of duty, a figure which far exceeds our domestic counterparts, deserves at least equal treatment.

Several security considerations unique to our profession buttress further our need for a flow-through personnel system allowing for early retirement. Prolonged service in operational environments increases the risk of identification of our operatives to hostile intelligence, internal security, or terrorist organizations. Anonymity is a critical ingredient for a successful intelligence officer. Personal security inevitably erodes with time and new operatives must constantly be put into the system. To maintain balance in the personnel structure, older, more exposed individuals must be allowed to retire.

Proposed modifications in the retirement system also threaten the security of our sources and methods which I am obligated by law to protect. Ironically, the revised retirement proposals would cause our older employees who should leave, to stay, and our younger employees, who should stay, to leave. Our officer corps is recruited generally from the recent college



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The Honorable David A. Stockman

graduate pool, roughly the 20 to 25 year-old age group. While it is to the Government's disadvantage to keep these people for 40 years for the reasons previously stated, it is equally disadvantageous from a security standpoint to permit them to leave our service in less than 20 to 30 years without an adequate retirement. Agency employees have access to highly classified information from the beginning of their employment. We have long recognized the inherent security risks to national security of a short-term, transient work force. Given the extraordinary sensitivity of our mission, we must have a career track which retains staff for a full career but promises them the early opportunity to retire.



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The Honorable David A. Stockman

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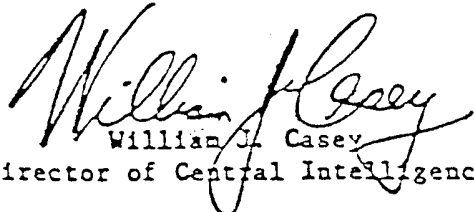
CIA is an excepted U.S. Government agency. As such, all employees are hired under the statutory authority of the Director and do not have Civil Service status through Agency employment. Consequently, CIA employees are statutorily excluded from tenure and from the protection and benefits derived by status under regular Civil Service laws and rules and regulations promulgated by the Office of Personnel Management. This is as it must be since the Director must have full and final authority to say when and where an employee will serve, at what duties and for how long. Congress and all administrations have historically recognized this authority. Indeed, Don Devine in his statement on February 23, 1984, before the House Committee on Post Office and Civil Service acknowledged:

"We do have certain special groups of employees under Civil Service retirement, such as, law enforcement officers, firefighters, and air traffic controllers, as well as the persons covered by the Foreign Service and CIA retirement systems, for whom special arrangements may be necessary under the new plan similar to those under the current retirement system."

We have been successful over the years recruiting and retaining career-oriented employees dedicated to the mission of this Agency. Attrition rates among the lowest in the government, if not the Nation, attest to the existence of a healthy career organization. Fundamental to this, health has been the successful policy which recognizes burnout as a reality and allows our employees to retire early and with dignity.

I am confident you will agree that the critical mission of the Central Intelligence Agency fully justifies the need for its employees to retain their present retirement benefits. I therefore ask that Section 6 (a) of the proposed legislation be deleted and that Agency employees be added to the special groups exempted in paragraph (5) of Section 2.

Yours,

  
William J. Casey  
Director of Central Intelligence

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# United States Senate

SELECT COMMITTEE ON INTELLIGENCE  
WASHINGTON, DC 20510

85- 4522

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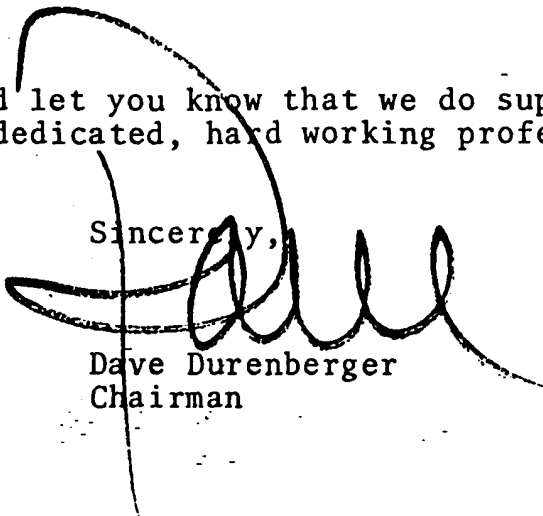
November 12, 1985

The Honorable William J. Casey  
Director of Central Intelligence  
Central Intelligence Agency  
Washington, D.C. 20505

Dear Bill:

Just thought I'd let you know that we do support your efforts to help the dedicated, hard working professionals at CIA.

Sincerely,



Dave Durenberger  
Chairman

Enclosure

MR. PRESIDENT, I RISE TO AMEND THE MOTION OF THE SENATOR FROM MISSOURI. BUT ALLOW ME TO FIRST SAY THAT I DO THIS IN THE SPIRIT OF IMPROVING AN ALREADY EXCELLENT AMENDMENT.

SENATOR EAGLETON'S AMENDMENT IS IMPORTANT AND MUST BE PASSED. IT COVERS TWO AREAS NOT INCLUDED IN THE PENDING LEGISLATION -- COVERAGE OF CENTRAL INTELLIGENCE AGENCY PERSONNEL UNDER THE NEW CIVIL SERVICE RETIREMENT SYSTEM AND INCLUSION OF OVERSEAS AGENCY PERSONNEL UNDER THE SO-CALLED "SPECIAL EARLY RETIREMENT" PROVISIONS FOR HIGH RISK OCCUPATIONS. BUT, UNFORTUNATELY, THE AMENDMENT DOES NOT GO QUITE FAR ENOUGH TO COVER THE UNUSUAL CIRCUMSTANCES IMPACTING CIA PERSONNEL.

AS YOU ARE AWARE, THE CIA HAS COME UNDER A GREAT DEAL OF PUBLIC AND CONGRESSIONAL SCRUTINY IN THE PAST DECADE AND CERTAINLY IN THE PAST WEEK. UNFORTUNATELY, WHAT YOU ARE NOT SEEING OR HEARING ARE THE THOUSANDS OF ACTIONS THEY ARE DOING RIGHT ON A DAILY BASIS. IN PARTICULAR, WE ARE CONSISTENTLY DEMANDING THAT OUR INTELLIGENCE OFFICERS ABROAD PROVIDE MORE AND MORE INFORMATION ON HOSTILE INTENTIONS, ESPECIALLY THOSE OF TERRORISTS.

THIS INVOLVES RISK. MORE AND MORE OF OUR CIA FIELD PERSONNEL ARE BEING SUBJECTED TO THREATS AND ABUSE. TWO YEARS AGO WE WITNESSED AN EXAMPLE OF THIS WHEN A NUMBER OF THEM

WERE KILLED BY A TERRORIST BOMBING OF THE U.S. EMBASSY IN BEIRUT. AND AS THEIR ASSIGNMENTS BECOME MORE HAZARDOUS AND DEMANDING, THE SPECIAL MENTAL AND PHYSICAL REQUIREMENTS NECESSARY OF THE INTELLIGENCE OFFICER INCREASE DRAMATICALLY.

TO MEET THIS STANDARD THE CIA MUST CONTINUALLY REPLACE ITS OFFICERS OVERSEAS WITH YOUNGER PERSONNEL WHOSE IDENTITIES ARE NOT KNOWN AND WHO CAN STAND UP TO THE STRESSES OF THEIR ENVIRONMENT. TO DO THIS THE CIA CURRENTLY ALLOWS THESE OFFICERS TO RETIRE AT AGE 50. THE DIRECTOR OF CENTRAL INTELLIGENCE CAN DEMAND THAT THEY RETIRE AT AGE 55.

YET MAKING THESE DEMANDS ON OUR CIA PERSONNEL FORCES THEM OUT AT AN AGE WHERE JOB OPPORTUNITIES ARE LIMITED. IN ADDITION, THEIR SKILLS ARE UNIQUE AND WE VIGOROUSLY DISCOURAGE THEM FROM REVEALING OR MARKETING THEIR EXPERTISE IN NEW CAREERS. THAT IS WHY WE MUST BE CAREFUL NOT TO SEND A FALSE MESSAGE -- THAT THEIR GOVERNMENT DEMANDS THE RISK, BUT IS UNWILLING TO PAY THE PRICE. IF WE ARE NOT GOING TO PAY THESE PEOPLE WHAT THEY DESERVE UP FRONT, THEN WE MUST PROVIDE FOR THEM AT THE END.

I AM PLEASED TO SAY, MR. PRESIDENT, THAT THERE IS NEARLY UNANIMOUS AGREEMENT ON THIS POINT AND THAT THE PENDING AMENDMENT WILL CONTINUE THE EARLY RETIREMENT PROGRAM FOR OUR OVERSEAS INTELLIGENCE OFFICERS. BUT THERE ARE THREE MODIFICATIONS NECESSARY IF WE ARE TO TRULY INSURE THE INTEGRITY AND EFFECTIVENESS OF THE CENTRAL INTELLIGENCE AGENCY'S RETIREMENT SYSTEM.

FIRST, WE MUST NOT ALLOW RETIREMENT BENEFITS TO DETERIORATE IN THE FUTURE. CURRENTLY, THE AVERAGE CIA OFFICER WILL RETIRE WITH A PENSION THAT WILL REPLACE 47 PER CENT OF HIS PRERETIREMENT SALARY.

UNDER THE PENDING LEGISLATION, THIS SAME EMPLOYEE WILL RETIRE WITH ONLY A 41 PER CENT REPLACEMENT RATE. BUT BY SLIGHTLY ADJUSTING THE PENSION ACCRUAL RATE FROM 1 PER CENT TO 1.3 PER CENT, THIS SLIP IN BENEFITS CAN BE AVOIDED. AND THAT IS ALL WE ARE TRYING TO DO HERE -- SIMPLY MAINTAIN PENSION BENEFITS AT CURRENT LEVELS -- NOTHING MORE, NOTHING LESS.

SECOND, THIS AMENDMENT PROVIDES FOR FULL SELF ADMINISTRATION BY THE CIA OF ITS RETIREMENT AND DISABILITY PROGRAMS. THIS IS CRITICAL IF THE AGENCY IS TO MAINTAIN CONFIDENTIALITY FOR ITS EMPLOYEES WHO ARE SERVING OR WILL SERVE -- LITERALLY A LIFE AND DEATH NEED IN THIS TIME OF INTERNATIONAL TERRORISM. UNDER CURRENT LAW, ONLY OVERSEAS PERSONNEL RECORDS ARE STRICTLY MAINTAINED IN-HOUSE BY THE AGENCY. IN THE EAGLETON AMENDMENT, THIS IS EXPANDED TO COVER FUTURE NON-OVERSEAS EMPLOYEES. BUT A CRITICAL GAP CONTINUES FOR THE THOUSANDS OF CURRENT NON-OVERSEAS PERSONNEL WHOSE RECORDS ARE MAINTAINED BY OPM AND OTHER NON-SECURE AGENCIES AROUND WASHINGTON.

AND THIRD, THE AMENDMENT REQUIRES THE DIRECTOR OF CENTRAL INTELLIGENCE TO STUDY THE CURRENT CIA RETIREMENT PROGRAM AND DETERMINE WHAT CHANGES AND EXPANSIONS ARE APPROPRIATE. IT HAS BEEN 20 YEARS SINCE SUCH A MAJOR REVIEW HAS BEEN DONE AND IT IS CLEAR TO THIS SENATOR THAT MODIFICATIONS ARE NECESSARY.

COLLOQUY WITH SENATOR EAGLETON:

IN OUR DISCUSSIONS WITH THE GOVERNMENT AFFAIRS COMMITTEE AND THE CIA, WE HAVE CONCLUDED THAT IT MAY BE NECESSARY TO EXPAND THE CURRENT CIA RETIREMENT AND DISABILITY PROGRAM TO MEET SPECIAL NEEDS. IS THIS ALSO SENATOR EAGLETON'S UNDERSTANDING?

WE ALSO BELIEVE THAT IT IS IMPORTANT THAT WE CONDUCT SUCH A REVIEW OF THE CIA RETIREMENT AND DISABILITY SYSTEM AND MAKE APPROPRIATE CHANGES WITHIN THE NEXT YEAR. DOES SENATOR EAGLETON ALSO BELIEVE THIS IS CORRECT?

THANK YOU.

RETURN TO STATEMENT

NOW, MR. PRESIDENT, I KNOW MANY PEOPLE WILL SAY THAT THIS AMENDMENT IS BAD POLICY. THEY WILL SAY THAT IF WE MAKE ANY EXCEPTIONS -- ANY AT ALL -- THE FLOOD GATES WILL OPEN TO ALL SPECIAL APPEALS. I AM CERTAINLY SENSITIVE TO THAT FACT AND KNOW FIRST HAND AS A MEMBER OF THE GOVERNMENT AFFAIRS COMMITTEE HOW DIFFICULT IT HAS BEEN TO GET THIS LEGISLATION TO THE FLOOR. BUT I ALSO KNOW THAT SUCH AN AGREEMENT SHOULD NOT PREVENT US FROM SIMPLY DOING WHAT IS RIGHT. PRINCIPLES AND RIGID POLICIES ARE WONDERFUL ONLY AS LONG AS THEY ARE CORRECT.



AND IN THE CASE OF THE INTELLIGENCE OFFICER, THE STRAIGHT-JACKET APPROACH OF "NO EXCEPTIONS" DOES NOT FIT REALITY. AND, THEREFORE, WE SHOULDN'T WEAR IT.

IN SUMMARY, OUR INTELLIGENCE OFFICERS FACE HAZARDS UNKNOWN TO OTHER OVERSEAS OR LAW ENFORCEMENT PERSONNEL. THEY AND THEIR FAMILIES MUST LEAD THEIR LIVES UNDERCOVER, NEVER TELLING FRIENDS AND ACQUAINTANCES OF THEIR TRUE MISSION AND RESPONSIBILITIES. IN A WORLD FILLED WITH TERRORISM, THEIR VERY SAFETY AND LIVES ARE AT STAKE IF THEIR COVER IS REVEALED. MOST OF THESE OFFICERS ALSO WORK TWO JOBS -- THEIR COVER EMPLOYMENT AND THEIR AGENCY DUTIES. AND, FINALLY, THE NATURE OF THIS WORK IS VERY EXACTING, DANGEROUS, AND DIFFICULT. IN SHORT, IT IS UNLIKE ANY OTHER WORK IN GOVERNMENT.

MR. PRESIDENT, THERE IS A GREAT NEED FOR A STRONG AND EFFECTIVE HUMAN INTELLIGENCE SERVICE IN TODAY'S INTERNATIONAL ENVIRONMENT. MY SERVICE ON THE SELECT COMMITTEE ON INTELLIGENCE HAS MADE ME WELL AWARE OF HOW MUCH WE DEPEND ON THE FINE MEN AND WOMEN OF OUR INTELLIGENCE COMMUNITY. THEIR RESPONSIBILITIES ARE UNIQUE AND THEIR CONTRIBUTION IS UNPARALLELED. IT IS MY DETERMINATION THAT THEY, IN TURN, WILL BE ABLE TO DEPEND ON US. I URGE THAT THE SENATE SUPPORT ME IN THIS EFFORT AND ADOPT THIS AMENDMENT.

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OCA 86-2822  
15 August 1986

MEMORANDUM FOR: Director, Office of Personnel

FROM:

Legislation Division  
Office of Congressional Affairs

SUBJECT: Mandatory Retirement Legislation

1. The Office of Management and Budget has requested our views on a letter recently sent by Representative James Jeffords (R-VT) to the Director of OPM regarding H.R. 4151, the "Age Discrimination in Employment Amendment of 1986." The bill would remove the upper age limit under the Age Discrimination in Employment Act of 1967. As now in force, the ADEA protects workers between ages 40 and 70 from discrimination in employment based on age. A copy of the letter to OMB and the bill are attached.

2. The Congressman, who is the Ranking Minority Member on the House Education and Labor Committee, has stated that when this bill reaches the House floor in September, he intends to offer an amendment that would preclude all federal agencies from requiring that employees retire by a certain age. The Congressman also requested that OPM provide a list of positions in the executive branch subject to mandatory retirement.

3. Congressman Jeffords amendment would, if enacted into law, eliminate the mandatory retirement features contained in CIARDS. I believe that this amendment would not be in the best interest of the Agency since it would substantially hinder our ability to phase out older employees who can no longer meet the rigorous mental and physical requirements of a job and make room for younger employees. I suggest that we should make our views known to both OMB and the HPSCI staff on this matter.

4. It would be helpful if your office could prepare a short paper detailing the arguments against the Jeffords amendment. Since OMB has requested our views by 28 August, I would appreciate receiving the views of your Office within the next two weeks.

Attachment as  
stated

Distribution: Original - Addressee  
OCA/Legislation Subject File: Retirement  
1 - OCA Registry  
1 - DMP/Signer  
OCA/Leg, [redacted] ap (15 August 1986)

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LED-SLATE Report for 99th Congress      Thursday, August 14, 1986    10:39am (EDT)  
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Report for H.R. 4154 Age Discrimination in Employment Amendments of 1986  
As reported by House committee, August 6, 1986    Report No. 99-756  
Complete Text of this version

KEY: << ... >> indicates struck-through text in printed version  
{{ ... }} indicates bold parenthesis (usually numbered Senate amendments)  
[[ ... ]] indicates bold brackets in printed version

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99th CONGRESS  
2d Session

IB  
Union Calendar No. 451

H. R. 4154  
[Report No. 99-756]

To amend the Age Discrimination in Employment Act of 1967 to remove the maximum age limitation applicable to employees who are protected under such Act, and for other purposes.

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IN THE HOUSE OF REPRESENTATIVES

February 6, 1986

Mr. Pepper (for himself, Mr. Hawkins, Mr. Jeffords, Mr. Martinez, Mr. Gunderson, Mr. Roybal, Mr. Rinaldo, Mr. Biaggi, Ms. Snowe, Mr. Bonker, Mr. Tauke, and Mr. Waxman) introduced the following bill; which was referred to the Committee on Education and Labor

August 6, 1986

Additional sponsors: Mrs. Bentley, Mr. Chappie, Mr. Hunter, Mr. Lehman of Florida, Mr. McKinney, Mr. Markey, Mr. Mitchell, Mr. Mrazek, Mr. Olin, Mr. Rahall, Mr. Scheuer, Mr. Towns, Mr. Wyden, Mr. Yates, Mr. Rangel, Mr. Akaka, Mr. Cobey, Mr. Chappell, Mr. McGrath, Mr. Daub, Mr. Dymally, Mr. Annunzio, Mr. Edgar, Mr. Bonior of Michigan, Mr. Jones of North Carolina, Ms. Kaptur, Mr. Crockett, Mr. Dorgan of North Dakota, Mrs. Collins, Mr. Anderson, Mr. de Lugo, Mrs. Schroeder, Mr. Coelho, Mr. de la Garza, Mr. Fauntroy, Mr. Foglietta, Mr. Dwyer of New Jersey, Mr. Coats, Mr. Berman, Mr. Boehlert, Mr. Wirth, Mr. McCain, Mrs. Long, Mr. Whitehurst, Mr. Wylie, Mr. LaFalce, Mr. Lungren, Mr. Morrison of Connecticut, Mrs. Burton of California, Mr. Wilson, Mr. Weaver, Mr. Kildee, Mr. Ackerman, Mr. Lantos, Ms. Oaker, Mr. McDade, and Mr. Levin of Michigan

August 6, 1986

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

REGI-SLATE Report

Page 2

August 14, 1986

[Strike out all after the enacting clause and continue with the text that follows]

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A BILL

To amend the Age Discrimination in Employment Act of 1967 to remove the maximum age limitation applicable to employees who are protected under such Act, and for other purposes.

=====

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

<<SECTION 1. SHORT TITLE.>>

<<This Act may be cited as the "Age Discrimination in Employment Amendments of 1986".>>

<<SEC. 2. AMENDMENTS TO ACT.>>

<<(a) Coverage Under Group Health Plans.--Subsection (g)(1) of section 4 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 623(g)(1)), as added by section 116(a) of the Tax Equity and Fiscal Responsibility Act of 1982, is amended by striking out "through 69" each place it appears and inserting in lieu thereof "or older".>>

<<(b) Technical Amendment.--Subsection (g) of the Age Discrimination in Employment Act of 1967, as added by section 802(b)(2) of the Older Americans Act Amendments of 1984, is amended by striking out "(g)(1)" and inserting in lieu thereof "(h)(1)".>>

<<(c) Removal of Maximum Age Limitation.--Section 12 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 631) is amended-->>

<<(1) in subsection (a) by striking out "but less than seventy years of age", and>>

<<(2) in subsection (c)(1) by striking out "but not seventy years of age,".>>

<<SEC. 3. EFFECTIVE DATE AND APPLICATION OF AMENDMENTS.>>

<<This Act and the amendments made by section 2 of this Act shall take effect on January 1, 1987, except that with respect to any employee who is subject to a collective-bargaining agreement-->>

<<(1) which is in effect on June 30, 1986,>>

<<(2) which terminates after January 1, 1987,>>

<<(3) any provision of which was entered into by a labor organization (as defined by section 6(d)(4) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(d)(4)), and>>

<<(4) which contains any provision that would be superseded by such amendments, but for the operation of this section,>>

<<such amendments shall not apply until the termination of such collective bargaining agreement or January 1, 1990, whichever occurs first.>>

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- (1) in subsection (a) by striking out "but less than seventy years of age", and
- (2) in subsection (c)(1) by striking out "but not seventy years of age,".

### SEC. 3. STUDY AND PROPOSED GUIDELINES RELATING TO POLICE OFFICERS AND FIREFIGHTERS.

(a) Study.--Not later than 18 months after the date of enactment of this Act, the Secretary of Labor and the Equal Employment Opportunity Commission, jointly, shall--

(1) conduct a study--

(A) to determine whether physical and mental fitness tests are valid measurements of the ability and competency of police officers and firefighters to perform the requirements of their jobs,

(B) if such tests are found to be valid measurements of such ability and competency, to determine which particular types of tests most effectively measure such ability and competency, and

(C) to develop recommendations with respect to specific standards that such tests, and the administration of such tests should satisfy, and

(2) submit a report to the Speaker of the House of Representatives and the President pro tempore of the Senate that includes--

(A) a description of the results of such study, and

(B) a statement of the recommendations developed under paragraph (1)(C).

(b) Proposed Guidelines.--Not later than 2 years after the date of the enactment of this Act, the Equal Employment Opportunity Commission shall propose, in accordance with subchapter II of chapter 5 of title 5 of the United States Code, guidelines for the administration and use of physical and mental fitness tests to measure the ability and competency of police officers and firefighters to perform the requirements of their jobs.

### SEC. 4. EFFECTIVE DATE AND APPLICATION OF AMENDMENTS.

This Act and the amendments made by section 2 of this Act shall take effect on January 1, 1987, except that with respect to any employee who is subject to a collective-bargaining agreement--

(1) which is in effect on June 30, 1986,

(2) which terminates after January 1, 1987,

(3) any provision of which was entered into by a labor organization (as defined by section 6(d)(4) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(d)(4)), and

(4) which contains any provision that would be superseded by such amendments, but for the operation of this section, such amendments shall not apply until the termination of such collective bargaining agreement or January 1, 1990, whichever occurs first.